



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

April 29, 2004

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

Brenda M. Kushner
511 Valley Road, NW
Atlanta, GA 30305

04-R-0575

Dear Ms. Kushner:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on April 19, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

RCS# 5585
4/19/04
3:03 PM

Atlanta City Council

Regular Session

CONSENT I CONSENT I PG(S) 1-18, EXCEPT:04-R-0538
 04-O-0487 04-R-0473
 ADOPT

YEAS:	14
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	2
EXCUSED:	0
ABSENT	0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	NV Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0911

Date: March 17, 2004

Claimant /Victim BRENDA M. KUSHNER
BY: (Atty) (Ins. Carrier) _____
Address: 511 Valley Road, NW, Atlanta, Georgia 30305
Subrogation: _____ Claim for Property damage \$ 20,000.00 Bodily Injury \$ _____
Date of Notice: 11/18/02 Method: Written, proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 09/21/02 Place: 511 Valley Road, NW
Department Watershed Management Bureau: Storm Water
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges her property was damaged due to the overflow of a creek that abuts her property. The investigation determined that the flooding was due to a rain event. Furthermore, the City is not responsible for the overflows of creeks as they are part of the State Waterway. The City is immune from liability as set forth in O.C.G.A. §36-33-1.

INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____
Traffic citations issued: City Driver _____ Claimant Driver _____
Citation disposition: City Driver _____ Claimant Driver _____

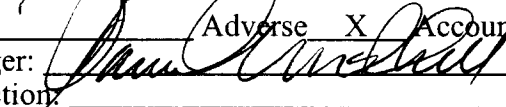
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____
Improper Notice _____ More than Six Months _____ Other X Damages reasonable _____
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____ 2P01 _____
Claims Manager:  Concur/date 03/17/04
Committee Action _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, SW
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: _____

ENTERED - 12-18-02 - SB

02L0911 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 20,000.00 plus property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: Sept. 21st 2002 (month/day/year) 2. Time of Incident: 3:00 PM - 6:00 PM 3. Police called: Yes ☒ Yes ☐ No
4. Location of incident (including street address): 511 VALLEY RD. N.W. Atlanta, GA 3030
5. Name of your insurance company: Liberty Mutual Policy No: 32-258-31598
6. State what and how incident occurred: Late Sat afternoon, Sept 21st 2002 we had continuing down pour of rain - AS a result, my home, which has a creek in the front yard, suffered extreme flood damage, both inside and out -
7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!
8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the vehicle registration).

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgment of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. Claims must be received within 6 months of the event.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Brenda M. Kushner
Signature of Claimant

Brenda M. Kushner
(Print Claimant's Name)
511 VALLEY RD N.W.
(Address)
Atlanta, GA 30305
(City, State and Zip Code)
404 262-1033
(Work Number) (Home Number)

12-1-02

Dear Mrs. Mitchell,

I received a box from
Elisa Weaver in the Mayors
office regarding the severe flood
damage to my home located at
511 Valley Rd. N.W., Atlanta, Ga. 30305.

Among many other problems
at my property involving the creek
that flows through the front of my
property, Mrs. Weaver said I should
complete the form she faxed me,
and forward it to you. I have
bills, pictures, and all that is
needed to try and remove the
great cost it has caused me, not to
mention the anxiety and fear it
will occur again.

Please contact me, and I
will be more than happy to send
you whatever you need to resolve
my loss. Thank you,
Brenda Kushner

04-R-0575

404-262-1033


Entered - 12/18/02 - sb
CL02L0911 - DIANNE C. MITCHELL

CLAIM OF: **BRENDA M. KUSHNER**
511 Valley Road, NW
Atlanta, Georgia 30305

04- *12* -0575

For damages alleged to have been sustained as a result of the
overflow of a creek on September 21, 2002 at 511 Valley Road, NW.

THIS ADVERSED REPORT IS APPROVED

BY: 
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: 3/30/04

CHAIR: P. K. Wolf

Hand Smith
Chela Smith
Chela Threlton

Phil Forgy

ADVERSED

APR 19 2004

CERTIFIED
APR 19 2004
Jerry L. DeLoach
MUNICIPAL CLERK

COUNCIL PRESIDENT PROTEM

CERTIFIED
APR 19 2004
Dianne C. Mitchell